

VIA ELECTRONIC CASE FILING (ECF)

March 30, 2006

The Honorable E. Thomas Boyle  
United States Magistrate Judge  
United States District Court for the Eastern District of New York  
Long Island Courthouse  
100 Federal Plaza  
P.O. Box 9014  
Central Islip, New York 11722-9014

Law Office of  
**Robert L. Powley**  
pc

Re: Google, Inc. v. Richard Wolfe d/b/a Froogles.com  
Civ. No. 05-01779(TCP)(ETB)  
Our Ref. No. 246.1

Dear Judge Boyle:

On behalf of Defendant, Mr. Richard Wolfe, we are writing to request the Court's intervention to assist in a discovery matter involving the depositions of Plaintiff's witnesses. Copies of said notices as served on Plaintiff in this lawsuit are attached hereto as Exhibit A.



At this time, despite several requests to resolve this matter, Plaintiff has failed to confirm dates, times and location(s) for depositions of its witnesses. In a telephone conversation this morning with counsel for Plaintiff, Virginia Richard, Defendant was informed (for the first time) that the individuals it noticed for deposition pursuant to Fed. R. Civ. P. 30(b)(1) are "not available" because according to counsel they do not have the "scope of knowledge" necessary. Plaintiff's position is absolutely unacceptable since all three (3) individuals noticed for deposition are listed on Plaintiff's list of witnesses included in its Initial Disclosures. Moreover, Plaintiff's own documents establish that these three individuals actively participated in the planning and launch of Plaintiff's website [www.froogle.com](http://www.froogle.com), the very website at issue in Defendant's counterclaim in this lawsuit. Finally, Plaintiff has known since March 3, 2006 that Defendant seeks to depose these individuals and never mentioned that it objected to Defendant's notices until now – one week after it deposed Defendant, Mr. Wolfe, and approximately two weeks before fact discovery is scheduled to close.

Plaintiff has identified two individuals available for deposition in response to Defendant's 30(b)(6) notice, and the parties are working to confirm dates and times.

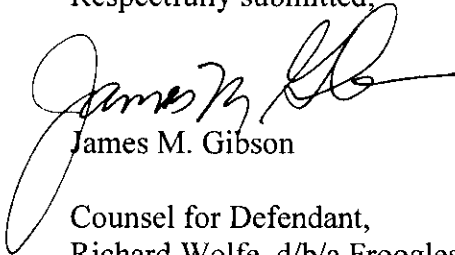
417 Canal Street  
4th Floor  
New York, NY 10013  
212.226.5054  
fax 212.226.5085  
mailbox@powleylaw.com

The Honorable E. Thomas Boyle  
March 30, 2006  
Page 2 of 2

Accordingly, we request a telephone conference with Your Honor and Plaintiff's counsel at Your Honor's earliest convenience as fact discovery is scheduled to close on April 15, 2006.

Should you have any questions or need any further information, please do not hesitate to contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James M. Gibson", is written over the printed name. The signature is fluid and cursive, with a large loop at the end.

James M. Gibson

Counsel for Defendant,  
Richard Wolfe, d/b/a Froogles.com

Cc: Virginia Richard, Esq.  
Counsel for Plaintiff, Google, Inc. (via ECF and email)